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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,110	03/07/2001	James Leushner	VGEN.P-058-2	5580

26582 7590 09/28/2004

HOLLAND & HART, LLP  
555 17TH STREET, SUITE 3200  
DENVER, CO 80201

EXAMINER

WILDER, CYNTHIA B

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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***Notice of Non-Responsive Amendment***

1. The reply filed on July 9, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant's response is considered non-compliant because it fails to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, June 30 2003). In order for the amendment document to be compliant, correction of the following items is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendment to the claims" section of Applicant's amendment document must be re-submitted. (37 CFR 1.21(h)).

The amendment is not in proper form as per required under the new requirements as amended on June 30, 2003. The following caused the amendment document to further be non-compliant: Each claim has not been provided with the proper status identifier. Specifically, claims that were amended in a prior response should be identified as "**currently amended**" or "**previously presented**" not "previously amended" as recited for claims 15, 16, 27, 28

For further explanation of the amendment format required by 37 CFR 1.121, See MPEP, see 714 and the USPTO website at:

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer/pdf>.

2. If the non-compliant amendment is a **Preliminary Amendment**, Applicant is given ONE MONTH from the mail date of this letter to supply the corrected sections which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and explanation on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This

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notice is not an action under 35 U.S.C. 132 and **this ONE MONTH time limit is not extendable.**

If the non-compliant amendment is a reply to a **Non-Final Office Action (including a submission for an RCE)**, and the amendment appears to a *bona fide* attempt to be a reply (37 CFR 1.135(c)), Applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If this amendment is a reply to a **Final Action**, this form may be an attachment to an advisory action. **The period of response to a final rejection continues to run from the date set in the final rejection,** and is not affected by the non-compliant status of the amendment.

#### **Contact Information**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (571) 272-0791. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be emailed to [cynthia.wilder@uspto.gov](mailto:cynthia.wilder@uspto.gov). Since email communications may not be secure, it is suggested that information in such request be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Cynthia Wilder*  
CYNTHIA WILDER  
PATENT EXAMINER  
9/24/2004